



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

[Docket No. FHWA-2019-0004]

Renewed Memorandum of Understanding (MOU) Assigning Certain Federal Environmental Responsibilities to the State of California, Including National Environmental Policy Act (NEPA) Authority for Certain Categorical Exclusions (CEs)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed renewal of MOU, request for comments.

SUMMARY: The FHWA and the State of California acting by and through its Department of Transportation (Caltrans), propose renew the MOU authorizing the State's participation in the Categorical Exclusion Assignment Program. This program allows FHWA to assign to States its authority and responsibility for determining whether certain designated activities within the geographic boundaries of the State are categorically excluded from preparation of an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments by any of the methods described below. To ensure that you do not duplicate your submissions, please submit them by only one of the means below. Electronic or facsimile comments are preferred because Federal offices experience intermittent mail delays due to security screening.

Federal eRulemaking Portal: Go to Web Site: <http://www.regulations.gov/>. Follow the instructions for submitting comments on the DOT electronic docket site (FHWA-2019-0004).

Facsimile (Fax): 1-202-493-2251.

Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Hand Delivery: 1200 New Jersey Avenue, SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Eastern Time, Monday through Friday, except Federal holidays.

For access to the docket to view a complete copy of the proposed MOU, or to read background documents or comments received, go to <http://www.regulations.gov/> at any time or to , SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Eastern Time, Monday through Friday, except for Federal holidays.

Instructions: You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For FHWA: Shawn Oliver; by email at shawn.oliver@dot.gov or by telephone at 916-498-5048. The FHWA California Division Office's normal business hours are 8 a.m. to 4:30 p.m. (Pacific Time), Monday-Friday, except for Federal holidays. For the State of California: Tammy Massengale; by email at tammy.massengale@dot.ca.gov or by telephone at 916-653-5157. State business hours are the same as above although State holidays may not completely coincide with Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may reach the Office of the Federal Register's home page at:

<http://www.archives.gov/> and the Government Printing Office's database:

<http://www.fdsys.gov/>. An electronic version of the proposed MOU may be downloaded

by accessing the DOT DMS docket, as described above, at <http://www.regulations.gov/>.

Background

Section 326 of Title 23 U.S. Code, creates a program that allows the Secretary of the U.S. Department of Transportation (Secretary) to assign, and a State to assume, responsibility for determining whether certain Federal highway projects are included within classes of action that are categorically excluded (CE) from requirements for Environmental Assessments or Environmental Impact Statements pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq. In addition, this program allows the assignment of other environmental review requirements applicable to Federal highway projects, except with respect to government-to-government consultations with federally recognized Indian tribes (23 U.S.C. 326(b)(1)). The FHWA retains responsibility for conducting formal government-to-government consultation with federally recognized Indian tribes, which is required under some of the above-listed laws and Executive Orders. The State may assist FHWA with formal consultations, with consent of a tribe, but FHWA remains responsible for the consultation. The Secretary delegated his authority to FHWA, which acts on behalf of the Secretary with respect to these matters.

The FHWA renewed California's participation in this program for a third time on May 31, 2016. The original MOU became effective on June 7, 2007, for an initial term of three (3) years. The first renewal followed on June 7, 2010, and the second renewal followed on June 7, 2013. The third MOU renewal has an expiration date on May 31, 2019.

The FHWA will consider the comments submitted on the proposed MOU when making its decision on whether to execute this renewal MOU. The FHWA will make the final, executed MOU publicly available.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 326; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 49 CFR 1.85; 40 CFR 1507.3, 1508.4.

Vincent Mammano,
California Division Administrator,
Federal Highway Administration.

[FR Doc. 2019-01810 Filed: 2/8/2019 8:45 am; Publication Date: 2/11/2019]